

HEARING DATE: AUGUST 15, 2023 AT 10:00 A.M.
OBJECTION DEADLINE: AUGUST 8, 2023 AT 4:00 P.M.

TARTER KRINSKY & DROGIN LLP

Attorneys for ERBO Properties LLC, KOVA 521, LLC and Gold Mezz LLC

Debtors and Debtors-in-Possession

1350 Broadway, 11th Floor

New York, New York 10018

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re: :
: Chapter 11
ERBO PROPERTIES LLC, et al.¹ :
: Case No.: 23-10210 (LGB)
Debtors. : (Jointly Administered)
-----X

**NOTICE OF HEARING TO CONSIDER TARTER KRINSKY & DROGIN LLP'S
APPLICATION TO WITHDRAW AS ATTORNEYS OF RECORD FOR THE DEBTORS**

PLEASE TAKE NOTICE, that upon the application (the "Application") of Tarter Krinsky & Drogin LLP (the "Firm"), a hearing shall be held before the Honorable Lisa G. Beckerman, United States Bankruptcy Judge, at the United States Bankruptcy Courthouse on **August 15, 2023 at 10:00 a.m. (EST)**, to consider the Firm's Application pursuant to 28 U.S.C. § 1746, and Local Bankruptcy Rule 2090-1(e) to withdraw as counsel to the Debtors.

PLEASE TAKE FURTHER NOTICE that parties wishing to participate or listen in to this hearing over Zoom must register online with the Court at <https://ecf.nysb.uscourts.gov/cgi-bin/nysbAppearances.pl>. Instructions regarding how to participate or listen in to a

¹ The Debtors are ERBO Properties LLC (EIN x9179), Case No.: 23-10210, with a mailing address at 551 Bedford Avenue, Brooklyn, NY 11211; KOVA 521, LLC (EIN x9972), Case No.: 23-10211, with a mailing address at 551 Bedford Avenue, Brooklyn, NY 11211; and Gold Mezz LLC (EIN x4741), Case No.: 23-10212, with a mailing address at 551 Bedford Avenue, Brooklyn, NY 11211.

Zoom hearing are available here <https://www.nysb.uscourts.gov/zoom-video-hearing-guide>.

Attorneys seeking to participate must be admitted to the Court or admitted pro hac vice. (See Local Rule 2090-1).

PLEASE TAKE FURTHER NOTICE that objections, if any, to the Application must be filed with the Court, and a chambers copy provided to chambers of the Honorable Lisa G. Beckerman, United States Bankruptcy Judge, United States Bankruptcy Court for the Southern District of New York, Alexander Hamilton Custom House, One Bowling Green, New York, NY 10004, and served on undersigned counsel, at Tarter Krinsky & Drogin LLP, 1350 Broadway, 11th Floor, New York, NY 10018, Attn: Scott S. Markowitz, Esq., in each case so as to be received no later than **August 8, 2023 at 4:00 p.m. (EST)**. Any response must set forth the grounds for and the facts supporting the response and must: (i) identify the response by the name of the responding party, (ii) indicate the hearing date on the upper right hand of the objection, and (iii) bear the caption and case number.

Dated: New York, New York
July 26, 2023

TARTER KRINSKY & DROGIN LLP
*Attorneys for Erbo Properties LLC, Kova 521, LLC
and Gold Mezz LLC
Debtors and Debtors-in-Possession*

By: /s/ Scott S. Markowitz
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TARTER KRINSKY & DROGIN LLP

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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	: Case No.: 23-10210 (LGB)
Debtors.	: (Jointly Administered)
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**DECLARATION OF SCOTT S. MARKOWITZ, ESQ., IN SUPPORT OF
TARTER KRINSKY & DROGIN LLP'S APPLICATION TO WITHDRAW AS
ATTORNEYS OF RECORD FOR THE DEBTORS**

Scott S. Markowitz, Esq., a partner in the law firm of Tarter Krinsky & Drogin LLP (the "Firm"), attorneys for the debtors Erbo Properties LLC, et al. (the "Debtors"), moves this Court for an order permitting the Firm to withdraw as counsel for the Debtors in these cases pursuant to 28 U.S.C. § 1746, and Local Bankruptcy Rule 2090-1(e); and declares under penalty of perjury as follows:

1. I am a partner in the Firm. The Firm is counsel of record for the Debtors. I submit this declaration in support of Firm's Application to withdraw as attorney for the Debtors. I have personal knowledge of the facts set forth herein, except to those facts that are stated upon information and belief, and as to those facts, I believe them to be true.

² The Debtors are ERBO Properties LLC (EIN x9179), Case No.: 23-10210, with a mailing address at 551 Bedford Avenue, Brooklyn, NY 11211; KOVA 521, LLC (EIN x9972), Case No.: 23-10211, with a mailing address at 551 Bedford Avenue, Brooklyn, NY 11211; and Gold Mezz LLC (EIN x4741), Case No.: 23-10212, with a mailing address at 551 Bedford Avenue, Brooklyn, NY 11211.

GENERAL BACKGROUND

2. On February 13, 2023 (the “Petition Date”), Erbo Properties LLC (“Erbo”), Gold Mezz LLC (“Gold Mezz”) and KOVA 521, LLC (“KOVA”), each commenced its Chapter 11 case (the “Cases”) by filing a voluntary petition for relief in this Court under Chapter 11 of the Bankruptcy Code. Pursuant to §§ 1107(a) and 1108 of the Bankruptcy Code, the Debtors continue to operate as debtors-in-possession.

3. By order dated February 14, 2023, the Debtors’ Cases have been jointly administered, without substantive consolidation, with the In re Erbo Properties LLC Case being designated as the lead Case pursuant to Bankruptcy Rule 1015(b).

4. On March 6, 2023, the Debtors filed an application to retain the Firm as general bankruptcy counsel to the Debtors [ECF Dkt. No. 29].

5. On March 30, 2023, this Court signed an order authorizing retention of the Firm as general counsel to the Debtors [ECF Dkt. No. 49].

6. On June 30, 2023, I was contacted by Hershel Klein, the Debtors’ vice president, who advised me the Debtors had elected to replace the Firm with new bankruptcy counsel.

7. On July 5, 2023, the Debtors filed an application to employ Law Offices of Isaac Nutovic as the Debtors’ replacement bankruptcy counsel [ECF Dkt. No. 114].

FACTS IN SUPPORT OF APPLICATION TO WITHDRAW AS COUNSEL

8. As set forth above, the Debtors' management fired the Firm and sought to retain new counsel.

9. Based upon this Court’s order dated July 12, 2023, 541 W 21 SME LLC, or its designee, now controls ownership of Erbo and the Firm has been advised Erbo as the fee owner of the real property, will be filing an application to hire new counsel.

10. Based upon the foregoing, we are faced with no other choice but to ask this Court to relieve the Firm as attorneys for the Debtors.³ It is submitted the foregoing constitutes “cause” for this Court’s approval of the Firm’s withdrawal as counsel to the Debtors in these cases.

POSTURE OF THE CASES

11. Previously this Court entered an order setting a deadline for the Debtors to file an amended plan of reorganization and disclosure statement. The Firm was recently requested to send in word format the plan of reorganization and disclosure statement it prepared for the Debtors and the Firm has complied with that request. It is my understanding Erbo and KOVA, with new counsel, will be preparing an amended plan of reorganization and disclosure statement and seek to reach agreements with the major creditor constituents and confirm a plan as soon as practicable.

RELIEF REQUESTED

12. The Firm is seeking an order pursuant to Rule 2090-1(e) of the Local Bankruptcy Rules for the Southern District of New York authorizing the Firm to withdraw as counsel to the Debtors.

13. Because of the transfer of the equity interest in Erbo and new management’s desire to retain counsel of its choosing, this Court should permit the Firm to withdraw.

NO PRIOR REQUEST

17. No prior application has been made by the Firm for the relief sought herein.

³ It is unclear whether Gold Mezz will be seeking counsel and is possible the Gold Mezz case may be dismissed.

WHEREFORE, the Firm respectfully requests the entry of an order granting the relief requested for which no previous request has been made, and that the Court grant such other and further relief it deems just and proper.

Dated: New York, New York
July 26, 2023

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